IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

WP(C).No. 33509 of 2006(L)

PETITIONER:

JOSEPHINA, W/O. JAMES, AGED 44,
VETTUSSERY HOUSE, JETTY ROAD,
VADUTHALA, KOCHI-23.

BY ADV. SRI.K.C.CHARLES

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY TO THE DEPARTMENT OF SURVEY &
LAND RECORDS, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR,
ERNAKULAM.

3. TAHSILDAR,
KANAYANNUR TALUK.

4. VIKRAMAN, S/O. GOPALAN,
AGED ABOUT 40, KADAPPARAMBIL HOUSE,
PEELIYADU ROAD, PONEKKARA, ELAMAKKARA P.O.,
ERNAKULAM.

5. SUJATHA, W/O. VIKRAMAN, AGED ABOUT 38,
KADAPPARAMBIL HOUSE, PEELIYADU ROAD,
PONEKKARA, ELAMAKKARA P.O., ERNAKULAM.

BY GOVT.PLEADER SRI.M.R.SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE SETTLEMENT DEED NO.1080/1989.

EXT.P2 TRUE COPY OF THE LAND TAX RECEIPT.

EXT.P3 TRUE COPY OF THE COMMISSION REPORT DTD.11.7.2006.

EXT.P5 PHOTOGRAPHS DTD.11.12.2006.

EXT.P6 TRUE COPY OF THE COMPLAINT DTD.11.7.2006.

TRUE COPY

P.A.TO JUDGE

S.SIRI JAGAN,J.

W.P.(C) NO.33509 of 2006

Dated this the 24th day of August, 2007

JUDGMENT

The petitioner claims to be the owner in possession and enjoyment of property covered by Ext.P1 settlement deed. On the western side of the petitioner's property, there is Peeliyadu river. The petitioner has constructed a retaining wall between the river and the petitioner's property so as to prevent soil erosion. Respondents 4 and 5 attempted to reclaim a portion of the river on the western side of the petitioner's property. In CMA 64/2006 filed against the refusal of Munsiff's Court, Ernakulam in O.S.793/2006 to grant interim reliefs, the District Court directed the parties to maintain status quo, as reported by the Advocate Commissioner in her report dated 11.7.2006. In spite of the same, respondents 4 and 5 continued to reclaim the portion of the river. Another Commission was taken out by the same Commissioner who reported that subsequent to her earlier report, there was changes in the property. In the above circumstances, the petitioner filed Ext.P6 petition before the third respondent. The petitioner seeks appropriate action on Ext.P6 expeditiously. Although notice has been served on respondents 4 and 5, they have not chosen to appear and contest the matter.

2.I have heard the learned Government Pleader.

3. When orders are passed by the appropriate civil court, the third respondent has a duty to see that the same is respected by respondents 4 and 5, especially, since the property involves river puramboke. As such, the third respondent had a duty to take appropriate follow up action in the matter on the basis of Ext.P6 petition filed by the petitioner. The third respondent shall see that respondents 4 and 5 conduct themselves in accordance with the orders of the civil court. If orders of the civil court has been violated, the third respondent shall take appropriate action to see that respondents 4 and 5 restore the property to its original condition in accordance with the orders of the civil court.

The writ petition is disposed of as above.

S.SIRI JAGAN, JUDGE

CSS/